

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

DARLENE CREAMER

v.

DOLGENCORP OF TEXAS, INC.
D/B/A DOLLAR GENERAL

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CIVIL ACTION NO. 9:22-cv-00051
(Jury Trial Demanded)

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS:

Defendant DOLGENCORP OF TEXAS, INC. files this, its Notice of Removal of a state-court action, pursuant to 28 U.S.C. §§1441(a), 1446(a), and would respectfully show the Court the following:

I. INTRODUCTION

1. Plaintiff Darlene Creamer ("Plaintiff") filed her Original Petition to commence this civil action in the District Court of Tyler County, Texas styled *Darlene Creamer v. Dolgencorp of Texas, Inc.*, Cause No. 25,912, on February 17, 2022.
2. Defendant Dolgencorp of Texas, Inc. ("Defendant") was served with Plaintiff's Original Petition on February 22, 2022. Defendant Dolgencorp of Texas, Inc. timely files this notice of removal within the 30-day time period required by and pursuant to 28 U.S.C. §1446(b)(1).

II. BASIS FOR REMOVAL

3. Removal is proper because there is complete diversity between the parties, as detailed hereinbelow, and the amount in controversy exceeds \$75,000.00.
4. At the time the state-court action was commenced and as of the date of this notice, Defendant Dolgencorp of Texas, Inc. is and was a corporation organized, formed, and incorporated

in and under the laws of the State of Kentucky, having its principal offices in the State of Tennessee. The Plaintiff, Darlene Creamer, is a citizen of the State of Texas.

5. Plaintiff has brought this suit against Defendant Dolgencorp claiming premises liability and negligence and seeking to recover for damages related to alleged injuries she sustained as a result of an alleged incident which purportedly occurred while she was shopping at one of Defendant Dolgencorp's stores. Plaintiff alleges that as a direct and proximate result of Defendant Dolgencorp's actions, she now seeks to recover damages relating to:

- a. Medical care and expenses in the past and future;
- b. Loss of earning capacity in the past and future;
- c. Physical pain and suffering in the past and future;
- d. Impairment in the past and future;
- e. Mental anguish in the past and future;
- f. Household services in the past and future; and,
- g. Disability in the past and future.

6. In Texas, all original pleadings that set forth a claim for relief must contain a specific statement of the relief the party seeks, pursuant to Texas Rules of Civil Procedure 47(c). In Plaintiff's Original Petition, Plaintiff asserts damages over \$250,000 but not more than \$1,000,000. It is therefore facially apparent from Plaintiff's initial pleadings that she is demanding monetary relief in an amount that exceeds the minimum jurisdictional amount of \$75,000.00. 28 U.S.C. §§1332(a); 1446(c)(2).

7. There are no other defendants in this case that would require consent to removal. 28 U.S.C. §1446(b)(2)(A).

8. A copy of all process, pleadings, and orders served upon Defendant in the state-court action are attached hereto as “Exhibit A,” as required by 28 U.S.C. §1446(a) and Local Rule 81.

9. Venue is proper in this district court because this district and division encompass the place in which the state-court action is pending.

III. JURY DEMAND

10. Defendant has made a jury demand in the state-court action; therefore, Defendant is not required to renew its demand. Fed. R. Civ. P. 81(c)(3)(A).

PRAYER

WHEREFORE, Defendant DOLGENCORP OF TEXAS, INC. respectfully requests that this action proceed in this District Court as an action properly removed to it, and for such other and further relief to which it may be justly entitled.

Respectfully submitted,

LUCERO | WOLLAM, P.L.L.C.



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**ATTORNEYS FOR DEFENDANT
DOLGENCORP OF TEXAS, INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24th day of March, 2022, the foregoing instrument was electronically filed the foregoing instrument with the Clerk of Court using the Court's CM/ECF system. Pursuant to Federal Rules of Civil Procedure 5(b)(2)(E) and 5(b)(3), and the Court's Electronic Filing Procedures, Section 15(c), the following counsel of record shall be served with a true and correct copy of this instrument by operation of the Court's CM/ECF system:

Via Electronic Service:

Brad Elrod
Lindsey B. Whisenhant
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GINA A. LUCERO